

Decision 02-03-019 March 6, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion  
and Order to Show Cause into the operations,  
practices and conduct of Titan  
Telecommunications, Inc. (U-6224), and  
Christopher Bucci, its President and owner,

Respondents.

Investigation 01-03-021  
(Filed March 15, 2001)

**ORDER EXTENDING STATUTORY DEADLINE**

We extend the deadline for resolving this adjudicatory proceeding until October 31, 2002. Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline. The 12-month deadline for resolving this matter is March 15, 2002. An extension is necessary to reasonably accommodate completion of hearings, filing of briefs, issuance of the presiding officer's decision (POD) and any ensuing appeal or request for review.

**Background**

The need for this extension is twofold. First, circumstances dictated issuance of this Order Instituting Investigation (OII) in advance of the completion of the Consumer Services Division's (CSD) investigation. Second, the parties have requested extensions of time to prepare testimony and continuance and consolidation of scheduled hearings. We have contemplated that the CSD's investigation of whether Respondent Bucci was an alter ego of ACI

Communications, Inc., and is an alter ego of Respondent Titan Telecommunications, Inc., and should be liable for their alleged violations of pertinent statutes and regulations, could require more than 12 months from issuance of the OII for decision. The August 27, 2001, Assigned Commissioner Ruling (ACR) set two phases of hearings, the first (revocation) for October 2001, and the second (alter ego) for January 2002. On September 28, 2001, Respondents filed a motion to amend the procedural schedule and requested that the Commission consolidate hearings for the revocation and alter ego phases and set them for the second week of January 2002. CSD did not oppose consolidation and the proposed schedule. By an October 4, 2001, Administrative Law Judge (ALJ) ruling, the hearings were consolidated and continued to January 8-11, 2002.

CSD's Phase II (alter ego) declarations were due on November 5, 2001. On November 2, 2001, CSD sent a letter to the ALJ stating that Respondents' failure to respond to a data request had delayed the preparation of those declarations. Respondents replied that CSD did not timely communicate the need for the responses, the responses were provided on November 7, 2001, and that Respondents needed the original four weeks provided in the current schedule for Respondents to submit their testimony/declarations in response to CSD's declarations. By a December 4, 2001, ALJ ruling, the Phase II hearings were taken off calendar and the Phase I hearings remained as scheduled.

Phase I hearings were held on January 8, 2002. After a second prehearing conference on January 30, 2002, a February 4, 2002, ALJ ruling set a new Phase II hearing schedule. Hearings are scheduled on April 24 and 25, 2002. To permit sufficient time for briefing, preparing a presiding officer's decision (POD), and Commission consideration of any appeals or requests for review, it is anticipated that this proceeding cannot be resolved until October 31, 2002.

## **Discussion**

Because of the nearness of the approaching deadline, and the fact that the case has not yet concluded, this order is issued to provide the findings required by § 1701.2(d). This case cannot be concluded within 12 months of initiation. The Phase II hearings anticipated in the OII will not occur until the end of April and additional time is necessary for the preparation of briefs, a POD, and Commission consideration of any appeals or requests for review.

Accordingly, we find that the 12-month deadline for processing this case pursuant to Pub. Util. Code § 1701.2(d) cannot be met, and that an extension in the schedule will be required. An extension through October 31, 2002, should provide a reasonable allowance of time to conclude the proceeding.

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable statutory deadline for public review and comment is being waived.

## **Findings of Fact**

1. This proceeding was filed on March 15, 2001.
2. The Commission contemplated that Consumer Services Division's alter ego investigation could require more than 12 months from issuance of this OII for decision.
3. The original schedule for this proceeding anticipated two phases of hearings – one set for October 2001 and the other set for January 2002.
4. Respondents' request for consolidation of hearings was granted and hearings were reset for January 2002.
5. Phase II hearings were scheduled for April 24 and 25, 2002.

6. Based upon the 12-month statutory deadline, this proceeding must be resolved on or before March 15, 2002, unless this date is extended.

7. Under the current schedule, this proceeding cannot be resolved before the 12-month statutory deadline runs.

8. An extension through October 31, 2002, is necessary to allow time for completion of this proceeding.

9. Public review and comment regarding today's decision should be waived.

### **Conclusions of Law**

1. Pub. Util. Code § 1701.2(d) requires that adjudication cases be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline.

2. The findings set forth above are sufficient to find that the 12-month deadline cannot be met.

3. The 12-month statutory deadline imposed by Pub. Util. Code § 1701.2(d) should be extended, effective immediately.

**O R D E R**

**IT IS ORDERED** that the 12-month statutory deadline in this proceeding, is extended until October 31, 2002.

This order is effective today.

Dated March 6, 2002, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners